

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Petitions of Verizon Telephone Companies for)	
Forbearance Pursuant to 47 U.S.C. §160(c) in the)	WC Docket No. 06-172
Boston, New York, Philadelphia, Pittsburgh,)	DA NO. 06-2056
Providence and Virginia Beach Metropolitan)	
Statistical Areas)	

**REPLY COMMENTS OF THE CITY OF PHILADELPHIA ON MOTION TO
COMPEL DISCLOSURE OF CONFIDENTIAL INFORMATION PURSUANT TO
PROTECTIVE ORDER AND MOTION TO DISMISS WITH RESPECT TO
VERIZON TELEPHONE COMPANIES' PETITION FOR FORBEARANCE FROM
CERTAIN REGULATIONS**

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Dated: November 6, 2006

**REPLY COMMENTS OF THE CITY OF PHILADELPHIA ON MOTION TO
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The City of Philadelphia (the “City”) submits the following Reply Comments concerning the Motion to Compel Disclosure of Confidential Information filed by Broadview Networks, Inc., Covad Communications Group, NuVox Communications, Inc., and XO Communications, Inc. (the “CLEC Parties”), as well as the Motion to Dismiss filed by Andrew Lipman and Brad E. Mutschelknaus on behalf of their clients ACN Communications Services, Inc. and sixteen other CLECs, both of which motions were made in response to the Verizon Telephone Companies’ Petitions for Forbearance Pursuant to 47 U.S.C. §160(c) filed September 6, 2006. These Reply Comments discuss Pennsylvania requirements restricting use and disclosure of E911 information which includes customer names, addresses and telephone numbers pursuant to statute and to an order of the Pennsylvania Public Utility Commission. It is fundamental to the operation of the E911 emergency response system that such confidential customer data be protected from improper use or disclosure. In particular, the City requests that any order issued by the FCC requiring further release of information by Verizon include a bar on any release of any copies of all or a part of the City’s Master Street Address Guide (“MSAG”) used in connection with E911 services, or the specific names, addresses and telephone numbers of individual customers of telephone companies which derives from information provided for E911 use and to which Verizon has had access solely because of its role as custodian of the E911 database. Indeed, Verizon claims that the E911 data which it submitted to the FCC in this proceeding “contain no customer-level detail, but merely tally the raw number of E911 listings that various carriers have obtained.” (Verizon Comments filed October 30, 2006 in Opposition to Motion to Dismiss, p. 2) With the caveat that such confidential customer

information and the City's own MSAG be shielded from disclosure, the City supports the motion of the CLEC Parties that Verizon should be required to release all other information upon which Verizon bases its Petitions for Forbearance. Verizon should release to those parties agreeing to the terms of the applicable FCC Protective Order in this Proceeding all information upon which Verizon relied in preparing its Petition, short of disclosure of the MSAG and individual names, addresses and telephone numbers of telephone company customers.

The City of Philadelphia has long been concerned that there be adequate protections for its citizens that the database developed for the E911 emergency response system be reserved solely for such use and that there be clear prohibitions on any other use of such information. The City has also long been concerned to protect the integrity of the Master Street Address Guide ("MSAG") which is owned by the City and used in tandem with the customer information provided by the telephone companies to provide for emergency response by the E911 system. The City has petitioned the Pennsylvania Public Utility Commission ("Pa PUC") to ensure that telephone companies which are granted access to the MSAG in connection with the provision of accurate customer location information for E911 purposes agree that they shall not make any unauthorized copies of such data or use it for any purpose other than for the E911 system. After lengthy proceedings before the Pa PUC, such an order was issued on May 17, 2000, and on August 17, 2000 the Pa PUC approved appropriate 911 tariff language to be incorporated into the Pa PUC tariffs of the members of the Pennsylvania Telephone Association protecting the MSAG and providing that each member telephone service provider will not use the MSAG for any purpose that is not directly related to and required for the provision of 911 service. See Attachment A hereto.

The uses of 911 information have also been clearly stated by the Pennsylvania legislature in the Public Safety Emergency Telephone Act, which is codified at 35 Pa.C.S.A. §§7011-7021.13. Particularly, the permitted and proscribed uses of telephone records are stated at 35 Pa.C.S.A. §7019, which states in full as follows (with **bold** highlighting added for provisions of key relevancy):

§ 7019. Telephone records

(a) **ACCESS.--** Each telephone service supplier shall provide customer telephone numbers, names and service addresses to PSAPs when requested by them for use in responding to 911 calls and, when required, to providers of emergency notification services and emergency support services, solely for the purposes of delivering or assisting in the delivery of emergency notification services and emergency support services. Each wireless provider shall provide the telephone number and geographical location of the wireless device, as required pursuant to the FCC E-911 Order, to PSAPs when requested by them for use in responding to 911 calls. Although customer telephone numbers, names and service addresses shall be available to PSAPs, providers of emergency notification services and providers of emergency support services, and the telephone numbers and geographical locations of wireless devices shall be available to PSAPs, **such information shall remain the property of the disclosing service supplier.** The total cost of the 911 system or wireless E-911 system shall include expenses to reimburse telephone service suppliers for providing and maintaining 911 information; provided, however, that nothing in this section shall permit a telephone service supplier to be reimbursed directly from the fund for providing and maintaining 911 information. **This information shall be used only in providing emergency response services to a 911 call or for purposes of delivering or assisting in the delivery of emergency notification services or emergency support services except as provided in subsection (c).** A person who uses or discloses ANI/ALI data base information for purposes other than providing emergency response services to a 911 call, delivering or assisting in the delivery of emergency notification services or emergency support services, or other than as provided in subsection (c) commits a misdemeanor of the third degree.

(b) **PRIVACY WAIVED.--** Private listing service customers in a 911 service district shall waive the privacy afforded by nonlisted and nonpublished numbers with respect to the delivery of emergency services.

(c) **IMMUNITY.--** No telephone company, wireless provider or vendor or agent, employee or director of a telephone company, wireless provider or vendor that provides information to PSAPs, providers of emergency notification services or providers of emergency support services shall be liable to any person who directly or indirectly uses the 911 emergency service or wireless E-911 emergency service established under this act or provides information to 911 systems or wireless E-911 systems with respect to the delivery of emergency services:

- (1) for release to PSAPs, providers of emergency notification services or providers of emergency support services of information specified in

this section, including nonpublished telephone numbers;

(2) **for release to the commission, the Federal Communications Commission or any other Federal or Commonwealth agency with the authority to regulate the provision of telecommunications services, of telephone company information specified in this section that is not already part of public records, including, where applicable information regarding numbers of lines served by an individual company but excluding nonpublic information regarding the company's individual customer names, addresses and telephone numbers;** or

(3) for interruptions, omissions, defects, errors, mistakes or delays in transmission occurring in the course of the delivery of emergency services or wireless E-911 service under this act, unless such interruptions, omissions, defects, errors, mistakes or delays are caused by the willful or wanton misconduct of the telephone company, wireless provider or vendor, their agents, employees or directors; provided, however, that nothing herein shall preclude the application of any commission tariff or regulation within its jurisdiction pertaining to allowances for telephone service interruptions.

It is noteworthy that the legislature inserted an exception in the general provision above restricting use of the information supplied to the Public Service Answering Point by the telephone service supplier on customer telephone numbers, names and service addresses. Such information may be used “only in providing emergency response services to a 911 call or for purposes of delivering or assisting in the delivery of emergency notification services or emergency support services *except as provided in subsection (c).*” As is seen in the above excerpt, subsection (c) at part (2) refers to release to the FCC or other government entity regulating telecommunications services of information not already part of public records including data concerning numbers of lines served by individual companies, but not including individual customer names, addresses or telephone numbers. To the extent that Verizon has merely provided a count of the number of lines served by individual companies in support of its Petitions for Forbearance, such use appears to be contemplated by the Pennsylvania statute. However, it would be improper for

Verizon or any other telephone company to use in this proceeding any records which contain individual customer names, addresses or telephone numbers. Further, it would be a violation of the Pa PUC order referred to above if there were any use in this Proceeding of the City's Master Street Address Guide or information obtained from it.

CONCLUSION

The City of Philadelphia urges that the FCC protect confidential customer data including customer names, addresses and telephone numbers which has been provided for use in the E911 emergency response system with the clear understanding that its confidentiality is to be guarded. Further, the City urges that the Master Street Address Guide also be protected from disclosure, in accordance with the provisions of the Pa PUC orders regarding restricted use of such data. Although Verizon is permitted by Pennsylvania law to aggregate the number of lines served by a telephone company and to disclose such information to the FCC and other governmental regulatory bodies, no disclosure is permitted of individual customer names, addresses or telephone numbers. Verizon should, however, be required to disclose, to all entities which agree to the terms of the Protective Order issued by the FCC in this proceeding, all other information upon which Verizon has relied in preparing its Petitions for Forbearance.

Dated: November 6, 2006

Respectfully submitted,
Romulo L. Diaz, Jr., City Solicitor

By: /s/ Michael C. Athay
/s/ Robert A. Sutton

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**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265**

Public Meeting held August 17, 2000

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
Nora Mead Brownell
Aaron Wilson, Jr.
Terrance J. Fitzpatrick

Pennsylvania Public Utility Commission
vs.
Pennsylvania Telephone Association

Docket Numbers:
P-00971203
M-00991217

ORDER

BY THE COMMISSION:

On June 2, 2000, Pennsylvania Telephone Association ("PTA"), filed proposed tariff revisions on behalf of its member Companies, to establish 911 tariff language in accordance with the 911 protocol guidelines established by the Commission in its order entered on May 17, 2000 at Docket Nos. P-00971203 and M-00991217.

Our review of the proposed tariff revisions, indicates that they are in compliance with revised Protocol No. 5, Section (e), attached to the Commission order at Docket Nos. P-00971203 and M-00991217.

After our review of PTA's proposed tariff filing, it does not appear that this filing is unlawful, unjust, unreasonable, or contrary to the public interest. Therefore, we will approve the proposed tariff filing. However, approval of this proposed tariff filing does

not constitute a determination that such tariff filing is lawful, just, or reasonable, but only that further suspension or investigation does not appear to be warranted at this time;


THEREFORE,

IT IS ORDERED:

1. That PTA's proposed tariff filing, for the purpose of making the above mentioned revisions is approved.
2. That a copy of this Order be served upon each certificated Local Exchange Carrier.
3. That within twenty (20) days of the entry date of this order, each certificated Local Exchange Carrier shall file tariff revisions with the Commission to include the PTA's approved 911 tariff language attached hereto, to become effective on one day's notice.
4. That any certificated Local Exchange Carrier filing tariff revisions which are substantially different than the PTA's proposed 911 tariff language, shall file said tariff revisions to become effective on sixty (60) day's notice and shall provide detailed reasons for the deviation.
5. That this Order is without prejudice to any formal complaints timely filed against this proposed tariff filing.

6. That this case be marked closed.

BY THE COMMISSION,


James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: August 17, 2000

ORDER ENTERED: ~~AUG~~ 17 2000

911 TARIFF LANGUAGE

I. GLOSSARY OF TERMS

Host Telephone Company: The service provider, which is also the telecommunications public utility that provides 9-1-1 service to the county/municipality, and that houses the Automatic Location Identification (ALI)/MSAG data used for providing 9-1-1 service.

Telephone Company: A telecommunications public utility regulated by the Pennsylvania Public Utility Commission and which has or requests access to the county/municipality 9-1-1 system or connection to the serving selective router, including, but not limited to, local exchange carriers and competitive local exchange carriers. This term is synonymous with 'service provider'.

Content: The data elements of the MSAG including (but not necessarily limited to) the data elements that are entered into the following fields A-I of a standard MSAG record:

- A. Tax area record
- B. Locality
- C. Street
- D. Thoroughfare
- E. Directional [where required]
- F. Even (E), odd (O), or all (A) [applied to house numbers]
- G. Low-high range of house numbers
- H. PSAP (Public Safety Answering Point)
- I. LAT/LONG (Latitude/Longitude) [where required]

Formatting, Format: Shall include changes to the identity of fields, order of fields, and number and arrangement of data elements in each field, and a telephone company's rearrangement or regrouping of such data, without changing the MSAG content, for purposes of validating against MSAG records.

2. REGULATIONS

- A. The Telephone Company will comply with the Protocols as set forth in, and in the form of, Service Provider E-9-1-1 Protocols, Service Provider E-9-1-1 Questionnaire and Testing Procedures in accordance with the Petition of Bell Atlantic-Pennsylvania, Inc. for a Declaratory Order (MSAG); Docket No. P-00971203; Settlement Agreement of all Parties and Joint Petition entered August 7, 1998.
- B. The Telephone Company is indemnified under the Public Safety Emergency Telephone Act, Act 78 of 1990.
- C. The Telephone Company's liability and insurance provisions are fully stated in Pa. P.U.C. No. 1, Section 1, General Regulations.
- D. Cases of Service interruptions affecting public health and safety shall receive priority attention under any and all conditions, particularly in time of disaster. Every appropriate resource will be utilized. The service provider will make reasonable best efforts to have its system fully functional as soon as possible, unless conditions beyond the service provider's control prevent service restoration.

Issued:

Effective:

911 TARIFF LANGUAGE

2. REGULATIONS (cont'd)

- E. The service provider will not use the county's/municipality's MSAG for any purpose that is not directly related to and required for the provision of 9-1-1 service.
- F. The Host Telephone Company will install the county's/municipality's MSAG in 'read/write' format and will not modify the content of the MSAG unless requested or permitted to do so by the county/municipality. A request to modify content by the Host Telephone Company shall be responded to by the county/municipality within (10) business days or the request is deemed to be approved. The request shall be in writing and shall set forth in reasonable detail the proposed modification and all reasons in support. The request shall be granted provided the modification is necessary for the Host Telephone Company's provision, maintenance, or upgrading of the 9-1-1 service.
- G. The Telephone Company shall not otherwise modify the content of the MSAG, but may make formatting changes approved by the county/municipality necessary to enable the MSAG to conform to the telephone company's information system(s). The request shall be in writing and shall set forth in reasonable detail the formatting changes and all reasons in support. The county/municipality shall respond to the request in ten (10) business days or the request is deemed to be approved. The request shall be granted provided the formatting change does not impair the integrity and accuracy of the MSAG database. For the purposes of this regulation, a content or formatting change does not include the use of the MSAG content in telephone companies' operational support systems to validate customer information for input to the ALI database.
- H. The service provider will not sell, lease, rent, loan or provide, or transfer the county's/municipality's MSAG to any other person(s) or entity(ies) without the express written authorization of the county's/municipality's 9-1-1 coordinator, or his or her designee.
- I. The Telephone Company will not, without the written consent of the county/municipality, modify or create any derivative of the county's/municipality's MSAG, except as follows: one (1) mirror image copy of the MSAG may be made in electronic form for archival purposes (the copy may be made in read/write format by the host telephone company, but shall be made solely in read-only format by all other telephone companies), and the telephone company may make a mirror image copy, solely in read-only format and only for database reconciliation, address verification for new connections of service, and other functions that are necessary to ensure that the name and address information provided by the service provider to the county/municipality is accurate and conforms to the county's/municipality's MSAG format.

Issued:

Effective: